

REMARKS/ARGUMENTS

In this Amendment, Applicants have amended the only pending independent claims in the application, i.e., claims 1 and 6, to more-particularly claim Applicants' invention. As will be further discussed below, Applicants now claim in independent claims 1 and 6 that the *state information* regarding a transmitting and receiving state of *a packet* that is calculated, and then is compared to the nonconformity information, is *obtained from the header information and the payload information of the packet itself*. Thus, as explained in Applicants' specification at least at page 10, lines 6-21, the state information, e.g., TCP connection information, is "acquired by analyzing the packet itself like the header information, [and] payload information of [the] packet..." Therefore, Applicants respectfully submit that even if Hernandez-Valencia discloses evaluating a received data stream in a conformance algorithm against a predefined traffic set, Hernandez-Valencia does not disclose the feature of Applicants' invention where state information is obtained from header information and payload information of a packet in the received data stream for evaluation in the conformance algorithm against the predefined traffic set. In contrast to Applicants' invention, Hernandez-Valencia uses parameters associated with the received data stream, e.g., PCR, MCR, MBS, and MFS, and does not use state information calculated from header information and payload information of a packet in the data stream for evaluation of the received data stream in the conformance algorithm. Therefore, Applicants respectfully submit that independent claims 1 and 6, and the claims that depend therefrom, are allowable over Hernandez-Valencia.

As discussed above, in Hernandez-Valencia, "[t]he conformance algorithm measures the above-described PCR, MCR, MBS, and MFS values for this received data stream." Col. 2, lines 8-10. The conformance algorithm then evaluates the received data stream from the user, by using these measured parameters associated with the received data stream, against the user's predefined traffic set. Col. 1, line 67 to Col. 2, line 2. Thus, Hernandez-Valencia

provides no disclosure for calculating state information for the received data stream from header information and payload information of a packet of the received data stream for use in the conformance algorithm. The only disclosure in Hernandez-Valencia for use of information in a packet of the data stream is for indicating whether a cell belongs to a non-conforming frame or a conforming frame. Col. 2, lines 57-60.

Therefore, Applicants respectfully submit that for at least the reason that Hernandez-Valencia does not disclose the feature of Applicants' invention of amended independent claims 1 and 6 of calculating state information from header information and payload information of a packet of a communication for use in a comparison step, claims 1 and 6 are allowable over Hernandez-Valencia.

Further in this Amendment, Applicants have provided Replacement Sheets for Figures 6 and 7 for the Examiner's consideration. The Replacement Sheets provide the legend "PRIOR ART" for these Figures, as required by the Examiner. Additionally, Applicants have amended the specification at pages 2-3 to include the reference characters shown in Figures 6 and 7. Therefore, Applicants respectfully submit that the Examiner's objections to the drawings have now been overcome.

Lastly, in conjunction with the filing of this Amendment, Applicants have filed an Information Disclosure Statement (IDS) for the Examiner's consideration. The IDS cites those documents cited in the European Search Report for the corresponding European patent application to the present application.

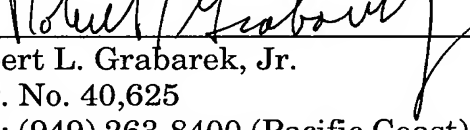
Applicants respectfully submit that the application is now in condition for allowance. If there are any questions regarding this Amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response. Please charge any such fee or any deficiency in fees, or credit any overpayment of fees, to Deposit Account No. 05-1323 (Docket No. 010755.52992US).

Respectfully submitted,

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